

FILED

MAR 06 2007

BEFORE THE DEPARTMENT OF INSURANCE
STATE OF NEBRASKA

NEBRASKA DEPARTMENT
OF INSURANCE

STATE OF NEBRASKA
DEPARTMENT OF INSURANCE,

PETITIONER,

VS.

VITALY STRIZHEUS,

RESPONDENT.

)
) FINDINGS OF FACT, CONCLUSIONS
) OF LAW, RECOMMENDED ORDER
) AND ORDER

)
) CAUSE NO. A-1679
)
)
)
)

This matter came on for hearing on the 23RD day of February, 2007, before Martin W. Swanson, a hearing officer duly appointed by the Director of the Nebraska Department of Insurance. The Nebraska Department of Insurance ("Department") was represented by its attorney, Christy Neighbors. Vitaly Strizheus (Respondent) was not present and was not represented by an attorney. The proceedings were tape recorded by Tracy Gruhn, a licensed Notary Public. Evidence was received, testimony was adduced and the matter was taken under advisement. As a result of the hearing, the hearing officer makes the following Findings of Fact, Conclusions of Law, and Recommended Order.

FINDINGS OF FACT

1. Respondent is a licensed insurance producer whose registered business address with the Nebraska Department of Insurance as 615 n. Shawnee Avenue, Sioux Falls, South Dakota. **E2.**
2. On May 31, 2006, Cynthia Williamson, an insurance investigator with the Nebraska Department of Insurance, wrote to Respondent requesting an answer to certain questions posed by the Department within fifteen working days pursuant to Neb. Rev. Stat. §44-1525(11). The

testimony adduced at hearing indicated that Respondent did not reply to the May 31, 2006 letter.

E3.

3. On June 26, 2006, Jane Francis, Administrator of the Consumer Affairs Division of the Nebraska Department of Insurance contacted Respondent with regard to the May 31, 2006 letter and requested an answer to the letter pursuant to Nebraska law. No answer was forthcoming from Respondent. E4.

4. On July 26, 2006, Cynthia Williamson sent yet another letter to Respondent requesting an answer to her original letter. E5. Although not in the record, Respondent did respond, however, it was ten days past the time due for response.

5. The Department of Insurance attempted to settle this matter with Respondent for an amount not in the record. It appears that Respondent was amenable to settlement, however, failed to have his signature notarized as required per the settlement agreement. E6. The Department of Insurance attempted to contact Respondent to have him resign the consent order; however, he failed to do so. E1.

CONCLUSIONS OF LAW

1. The Department has jurisdiction and control over the licensing of Respondent to sell insurance in the State of Nebraska pursuant to Neb. Rev. Stat. §44-101.01 and §44-4001 et seq.
2. The Department has personal jurisdiction over Respondent.
3. Respondent violated Neb. Rev. Stat. §§44-1525 (11), 44-4059(1)(b) and (h).

RECOMMENDED ORDER

The Hearing Officer has taken into account that while it took Respondent several months to respond, he finally did, in fact, respond. Therefore, a suspension is not warranted. However, the consistent ignoring of correspondence from the Department of Insurance is troubling. Additionally, it appears that Respondent was willing to settle this matter with The Nebraska Department of Insurance however; he failed to accomplish the final step of signing the document which would have prevented this matter from going to hearing. Nonetheless, I have taken into consideration the fact that Respondent was willing, at least for a time, to admit to the violations as alleged in the Department of Insurance's Petition. With all of those considerations in mind, a significant fine is warranted. Based on the Findings of Fact and Conclusions of Law, it is recommended that Respondent be fined \$1000. Respondent is ordered to pay the fine within 30 days after the Director, or his designee, adopts this recommended order. The Department of Insurance will continue to retain jurisdiction over this matter.

Dated this 5th day of March, 2007.

STATE OF NEBRASKA
DEPARTMENT OF INSURANCE



Martin W. Swanson
Hearing Officer

CERTIFICATE OF ADOPTION

I have reviewed the foregoing Findings of Fact, Conclusions of Law, and Recommended Order and hereby certify that the Recommended Order is adopted as the official and final Order of

this Department in the matter of State of Nebraska, Department of Insurance vs. Vitaliy Strizheus,
Cause No. A-1679.

Dated this 6th day of March, 2007.

STATE OF NEBRASKA
DEPARTMENT OF INSURANCE



L. TIM WAGNER
Director of Insurance

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Findings of Fact, Conclusions of Law, Recommended Order, and Order was served upon the Respondent by mailing a copy to Respondent at 615 North Shawnee Avenue, Sioux Falls, South Dakota 57103, by certified mail, return receipt requested, on this 7th day of March, 2007.

